

University of Oklahoma College of Law

University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

5-15-1888

Letter from the Secretary of the Interior,
transmitting a letter from the Commissioner of
Indian Affairs relative to the freedmen in the
Chickasaw Nation.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>

 Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

S. Exec. Doc. No. 166, 50th Cong., 1st Sess. (1888)

This Senate Executive Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

*A letter from the Commissioner of Indian Affairs relative to the freedmen
in the Chickasaw Nation.*

MAY 15, 1888.—Ordered to be printed and referred to the Committee on Indian Affairs.

DEPARTMENT OF THE INTERIOR,
Washington, May 9, 1888.

SIR: I have the honor to transmit herewith a communication of the 8th instant from the Commissioner of Indian Affairs, reporting as to the present status and condition of the freedmen in the Chickasaw Nation, in the Indian Territory, and submitting, with other papers on the subject, a draught of proposed legislation prepared under his direction for their relief, which he states is understood to be acceptable both to the Chickasaws and to the freedmen.

The subject is respectfully presented for the consideration and action of Congress.

Very respectfully,

WM. F. VILAS,
Secretary.

The PRESIDENT PRO TEMPORE OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 8, 1888.

SIR: In the last annual report of this office it was indicated that a special report upon the subject of the freedmen in the Chickasaw Nation, with a draught of the necessary legislation for their relief, would be prepared and submitted for your consideration before the meeting of Congress.

Pressure of other important matters has prevented earlier action upon this subject, which is referred to at length in said report (p. 59).

By the third article of the treaty of April 28, 1866 (14 Stat., 769), the Choctaws and Chickasaws, in consideration of the sum of \$300,000, ceded to the United States the territory west of the 98th degree of west longitude, known as the "leased district," with the provision that said sum of \$300,000 should be invested and held by the United States, at an interest not less than 5 per cent., in trust for said nations until the

legislatures of such nations should respectively make such laws as might be necessary—

to give all persons of African descent, resident in said nations at the date of the treaty of Fort Smith and their descendants, heretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations respectively, and also to give to such persons who were residents as aforesaid and their descendants 40 acres each of the land of said nations on the same terms as the Choctaws and Chickasaws. * * * And immediately on the enactment of such laws, rules, and regulations the said sum of \$300,000 shall be paid to the said Choctaw and Chickasaw Nations in the proportion of three-fourths to the former and one-fourth to the latter, less such sum, at the rate of \$100 per capita, as shall be sufficient to pay such persons of African descent before referred to as, within ninety days after the passage of such laws, rules, and regulations, shall elect to remove and actually remove from said nations respectively. And should the said laws, rules, and regulations not be made by the legislatures of the said nations respectively within two years from the ratification of this treaty then the said sum of \$300,000 shall cease to be held in trust for the said Choctaw and Chickasaw Nations, and be held for the use and benefit of such of said persons of African descent as the United States shall remove from the said Territory in such manner as the United States shall deem proper, the United States agreeing, within ninety days from the expiration of the said two years, to remove from said nations all such persons of African descent as may be willing to remove.

Those remaining or returning after removal to be on the same footing as other citizens of the United States.

The fourth article contained certain stipulations relative to the treatment of the negroes in the respective nations.

The forty-sixth article provided that "of the moneys stipulated to be paid to the Choctaws and Chickasaws under this treaty for the cession of the leased district and the admission of the Kansas Indians among them" (provided for in article 30) the sum of \$150,000 shall be advanced and paid to the Choctaws and \$50,000 to the Chickasaws, through their respective treasurers, at soon as practicable after the ratification of this treaty, to be repaid out of said moneys or any other moneys of said nation in the hands of the United States.

By the act of July 26, 1866 (14 Stats., 259), the sum of \$50,000 was appropriated "to be advanced the Chickasaws for the cession of the leased district and the admission of the Kansas Indians," as per the forty-sixth article of the treaty of April 28, 1866, which amount was paid the treasurer of the Chickasaw Nation February 8, 1867.

Said act also appropriated the sum of \$15,000 for interest, at 5 per cent. per annum, upon the amount paid for certain lands ceded by the Choctaws and Chickasaws to the United States, and due them under the third and forty-sixth articles of said treaty, and the sum of \$3,750 (the proportionate share of the Chickasaws) was paid to the treasurer of said nation July 27, 1867.

By the act of April 10, 1869 (16 Stats., 39), the sum of \$15,000 was appropriated for "interest due the Choctaws and Chickasaws, August 8, 1868, on \$300,000, held in trust for said Indians under the third article" of said treaty.

The share of the Chickasaws in the above appropriation (\$3,750) was paid to Holmes Colbert, Chickasaw commissioner, May 28, 1869.

Meantime, on November 9, 1866, the Chickasaw legislature passed an act declaring it to be the unanimous desire of the legislature that the United States keep and hold the Chickasaw share of the \$300,000 for the benefit of the negroes, and requesting the governor "to notify the Government of the United States that it is the wish of the legislature of the Chickasaw Nation for the Government to remove said negroes from the limits of the Chickasaw Nation, according to said third article of the treaty of April, 1866."

The following month the freedmen also memorialized the Government, stating that the bitter feeling of the Chickasaws towards them and the willingness of the Chickasaws to give up their proportion of the \$300,000, rendered them anxious to leave that nation and to settle on any land designated by the Government, and asked that transportation be provided for themselves and families, and supplies sufficient to enable them to make a start in their new homes.

No attention was paid to this petition. Nearly two years passed, and on June 27, 1868, the freedmen again sent in a petition to the same effect, which was laid before Congress, but no action was taken. August 17, 1868, both the Choctaw and Chickasaw Nations urged the Government to fulfill its pledges and remove the freedmen. In February, 1869, a delegation of the latter came to Washington, at the expense of the Government, to submit a memorial urging the fulfillment, on the part of the Government, of that treaty stipulation in regard to their people. From this nothing resulted. About this time the suggestion came from various sources that a tract west of the Seminole Nation would be suitable land on which to locate the freedmen.

In 1873 an act was passed by the Chickasaw legislature, approved January 10, 1873, entitled "An act to adopt the negroes of the Chickasaw Nation," which declared all negroes belonging to Chickasaws at the time of the adoption of the treaty at Fort Smith, and resident in the nation at the date thereof, and their descendants, to be adopted, in conformity with the third article of the treaty of 1866; provided, that the proportional part of the \$300,000 specified in said article, with the accrued interest thereon, should be paid to the Chickasaw Nation for its sole use and benefit; provided further, that the said adopted negroes should not be entitled to any part of the said \$300,000, nor to any benefit from the principal and interest of invested funds, nor to any share in the common domain except the 40 acres provided in the treaty, nor to any privileges or rights not conferred by the treaty; and provided further, that said adopted negroes should be subject to the jurisdiction and laws of the Chickasaw Nation just as if said negroes were Chickasaws.

This act was to have full force and effect from and after its approval by the proper authority of the United States.

This act was transmitted to Congress by Secretary Delano February 10, 1873, who recommended that such legislation be had by Congress as would extend the time in all respects for the execution of the provisions of the third article of the treaty of 1866 for the term of two years from the 1st of July, 1873.

The subject was referred to the Committee on Freedmen Affairs February 13, 1873, and ordered to be printed. No further action appears to have been taken. (See annual report of this office for 1882, page LVII, and H. R. Ex. Doc. No. 207, Forty-second Congress, second session.)

By this failure of Congress to take action the one favorable opportunity for the adoption by the Chickasaws of their freedmen was lost. Since then all Chickasaw action has looked towards the removal of the freedmen.

December 30, 1875, Hon. J. P. C. Shanks, who had been appointed in March previous to investigate and report upon the status of the freedmen among the Choctaws and Chickasaws, submitted his report, in which he opposed the removal of the freedmen, and recommended that the United States take measures to secure their recognition as full citi-

zens in the nations. Upon this report no action seems to have been taken.

In 1876 the legislature of the Chickasaw Nation adopted resolutions (approved October 18, 1876) directing the election of commissioners to confer with the commissioners from the Choctaw Nation to agree upon some plan whereby the freedmen and their descendants should be removed from, and kept out of, the Choctaw and Chickasaw country. (See Chickasaw Laws, page 148, edition of 1878.)

In 1879 the legislature passed an act (approved March 17, 1879) authorizing the appointment of commissioners to meet like commissioners from the Choctaws, to confer on the freedmen question, and report in writing to the legislature. (See page 6 of pamphlet laws, 1878-'81.)

During much of this time the Choctaws had manifested a willingness to adopt their freedmen, but it had been held that under the treaty the joint or concurrent action of both nations was required in order to make valid the action of either.

On November 2, 1880, the Choctaw legislature memorialized Congress, expressing their willingness to accept their freedmen as citizens, and asking for legislation that would enable them to do so. A Senate bill, which was never reported, was the sole result of this effort.

In 1882, in order to give the freedmen of these two nations some school facilities, the following clause was inserted in the Indian appropriation act, approved May 17, 1882 (22 Stats., 72):

That the sum of \$10,000 is hereby appropriated out of the \$300,000 reserved by the third article of the treaty with the Choctaws and Chickasaws, concluded April 8, 1866, for the purpose of educating freedmen in said tribes, to be expended under the direction of the Secretary of the Interior, three-fourths thereof for the freedmen among the Choctaws and one-fourth for the freedmen among the Chickasaws: *Provided*, That said sum of \$10,000 shall be deducted in like proportion from any moneys in this act appropriated to be paid said Choctaws and Chickasaws: *And provided further*, That either of said tribes may, before such expenditure, adopt and provide for the freedmen in said tribes in accordance with said third article, and in such case the money herein provided for such education in said tribe shall be paid over to said tribe to be taken from the unpaid balance of the \$300,000 due said tribe.

Under this legislation the Choctaws adopted their freedmen, and the balance of the share of the Choctaw Nation in the \$300,000 (\$52,125), was placed to the credit of the Choctaws on the books of the United States Treasury, by the act of March 3, 1885 (23 Stats., 366).

In January, 1887, the delegates of the Chickasaw Nation addressed a memorial to the President, in which, after reciting the provisions of the treaty of April 28, 1866, with the Choctaws and Chickasaws relative to the freedmen in those nations, and the action of the Chickasaws thereunder, they earnestly asked—

The United States to fulfill the treaty of 1866 by removing without delay to the leased district west of the ninety-eighth meridian of longitude, or to the Oklahoma country, ceded by the Creek treaty of 1866, or elsewhere, all the freedmen who shall consent to such removal, and by placing all those who shall refuse to go on the same footing as other citizens of the United States in the Chickasaw Nation.

During that year and the present, several complaints have been received from the freedmen relative to the denial of their rights, and particularly as to the utter lack of educational facilities. Recently Agent Owen held a conference with some of the leading freedmen, at which they expressed a desire to remain in the nation if their rights, especially in the matter of schools, could be accorded them, but signified their willingness to submit to the decision of the Government. The Chickasaw authorities positively refused to take any steps looking to their adoption, and even refuse to provide for their education. This reluctance

to carry out the stipulations of the treaty is doubtless caused in great measure by the fear that the freedmen will outvote the Chickasaws, they being fully as numerous as the Indians. These people, therefore, whose rights, protection, and education were guarantied by treaty, are left in ignorance, without civil or political rights, and with no hope of improvement.

October 4, 1887, the Chickasaw legislature passed a memorial, in which they recite the facts concerning their freedmen, and say:

And whereas the Chickasaw people have kindly and friendly feeling towards the freedmen, their former slaves, and wishing them to receive full valuation of the places they live upon, for their support, as provided for in section 4 of the treaty of 1866, do hereby agree that they shall have two years from the passage of this act to sell their improvements in the Chickasaw Nation to the best advantage, that no loss may accrue to them: Therefore,

Be it resolved by the legislature of the Chickasaw Nation, That the nation shall refund to the United States the sum of \$55,000, to be used in removing the freedmen in the Chickasaw Nation to their new home as provided under the third and fourth articles of the treaty of 1866, made between the United States and the Choctaw and Chickasaw Nations of Indians.

The principal reason for the persistent refusal of the Chickasaws to adopt the freedmen as before indicated appears to be the fact that their numbers are nearly equal to, if not in excess of, the Chickasaws; hence they fear that the freedmen may be able to control their schools and government.

With this state of affairs existing it is useless to expect that the Chickasaws will accord these freedmen any rights in the nation.

Under these circumstances I believe their removal is the only practicable method by which they can be afforded educational and other privileges. It has been decided by Judge Parker, of the district court of the western district of Arkansas, that the United States may settle freedmen belonging to the five civilized tribes upon lands acquired from the Seminoles and Creeks, and Agent Owen suggests that the Chickasaw freedmen be removed to that portion of Oklahoma lying on the Canadian River west of the Pottawatomie Reservation.

Many of the freedmen have doubtless made improvements on the lands which they and their fathers have occupied but not possessed; and if, because they can acquire no title thereto, they are forced to abandon those improvements, it would be but sheer justice to pay them the full value thereof, in addition to the \$100 per capita which the treaty promised them if they should emigrate.

I have accordingly prepared, and have the honor to submit, herewith, the draught of a bill providing for the removal of such as are willing to emigrate to the Creek and Seminole ceded lands within the tract known as Oklahoma.

It provides for ascertaining who of those covered by the terms of the treaty are willing to remove, and for the appraisement of the improvements of such persons.

These facts are to be ascertained by a special agent or employé of this Department, to be designated by the Secretary, and a commissioner appointed for the purpose by the Chickasaw authorities. In case of the failure of these persons to agree, they are to select an umpire.

By this method it is believed that justice will be done all parties. It also provides that no persons shall be removed until they have disposed of their improvements, or the Chickasaw Nation has paid them the appraised value of the same.

The per capita payment of \$100, as provided for in the treaty, is to be made to those electing to remove after they have disposed of their improvements.

Those who do not elect to remove are to be placed upon the same footing as other non-citizens of the nation.

It also provides that the lands upon which they may settle, and which were ceded to the United States "to locate other Indians and freedmen thereon," may be allotted to them in quantity as provided in the general allotment act, and secured to them by the same title.

In the estimate upon which the appropriation made by the act of March 3, 1885, was based, the account of the two nations was stated as follows:

From the \$300,000 should be deducted, not only the \$200,000 appropriated and paid over immediately upon the proclamation of the treaty, but also the two years' interest on that \$200,000, which, for some unknown reason, was also appropriated :	
Residue of \$300,000, unappropriated	\$100, 000
Amount appropriated as interest on \$300,000 for year ending June 10, 1867	15, 000
Deduct amount of appropriation of interest for said year on \$100,000 ..	5, 000
	<hr/> 10, 000
Leaving	90, 000
Amount appropriated as interest on \$300,000 for year ending June 10, 1868	15, 000
Deduct amount of appropriation of interest for said year on \$90,000 ..	4, 500
	<hr/> 10, 500
Leaving	79, 500
From this amount should be deducted the sum appropriated by act approved May 17, 1882	10, 000
	<hr/> 69, 500

to be paid the Choctaws and Chickasaws in case they adopted their freedmen. Of this their three-fourth share, amounting to \$52,125, was appropriated and placed to the credit of the Choctaws.

The \$10,000 appropriated by the act of May 17, 1882, is not, however, chargeable to the Chickasaws, as they were paid nothing under it; on the contrary, the sum of \$2,500 theretofore paid them was recouped.

The Chickasaws are therefore entitled to—

One-fourth of \$200,000 awarded under the treaty	\$50, 000
One-fourth of \$9,500, two years' interest justly due	2, 375
One-fourth of \$100,000 (balance of \$300,000)	25, 000
Total	<hr/> 77, 375

Or following the figures of the estimate:

Balance due both nations prior to the passage of the act of May 17, 1882	79, 500
Share of Chickasaws (one-fourth)	19, 875
To which should be added amount previously paid	57, 500
	<hr/> 77, 375

As before stated, the amount actually retained by the Chickasaws is \$55,000.

I have therefore inserted in the proposed bill an appropriation of \$77,375, of which the sum of \$55,000 is required to be refunded by the Chickasaws, the whole amount being the sum appropriated by the third article of the treaty of 1866, to be held in trust for the benefit of the freedmen in case the Indians refused to adopt them.

The number of freedmen in the Chickasaw Nation is estimated at from 3,000 to 4,000, but undoubtedly a large number of those resident with the Chickasaws are Choctaw freedmen, and citizens of that nation.

It is not probable that the above amount will be sufficient to remove all the Chickasaw freedmen from that nation, but it will be enough for the present, and to test the practicability of this effort for their relief.

The legislation proposed is understood to be acceptable both to the Chickasaws and the freedmen, although the latter would doubtless prefer to remain, if they could be accorded the rights of citizenship and school facilities.

The matter is of pressing importance, and I have the honor to recommend that it be submitted to Congress with request for early and favorable consideration.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

A bill for the relief of the Freedmen in the Chickasaw Nation, Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized to remove from the Chickasaw Nation in the Indian Territory, to the lands ceded to the United States by the third article of the treaty with the Seminole Indians, concluded March twenty-first, eighteen hundred and sixty-six, and the third article of the treaty with the Creek Indians, concluded June fourteenth, eighteen hundred and sixty-six, such persons of African descent resident in the Choctaw or Chickasaw Nations at the date of the treaty of Fort Smith (September thirteenth, eighteen hundred and sixty-five) and their descendants, formerly held in slavery among said Nations, as are now resident in said Chickasaw Nation, not being citizens of the Choctaw Nation, and as may consent to such removal.

SEC. 2. That the Secretary of the Interior shall, as soon as practicable after the passage of this act, designate a special agent or employé of his Department, whose duty it shall be, in connection with a commissioner appointed by the Chickasaw authorities for the purpose, to ascertain and determine what persons of African descent, as described in the first section of this act, will consent to remove to said ceded lands, and to appraise the value of all improvements of all such persons so consenting to remove. In case said person designated by the Secretary of the Interior and commissioner are unable to agree as to whether any person electing to remove is of the class described in the first section of this act, or as to the value of the improvements of any such person, they shall select an umpire, whose decision shall be final and conclusive.

SEC. 3. All persons whose improvements may be appraised under the provisions of this act shall not be required to remove from the Chickasaw Nation until they shall have disposed of their improvements: *Provided*, That the Chickasaw Nation may pay to any person within the provisions of this act the appraised value of his improvements, in which case such person shall be required to remove from the Nation, with his family, within sixty days from such payment.

SEC. 4. That each of the persons electing to remove from the Chickasaw Nation under the provisions of this act, shall be paid the sum of one hundred dollars, as provided in the third article of the treaty with the Choctaw and Chickasaw Nations, concluded April twenty-eight, eighteen hundred and sixty-six, provided that said sum shall not be paid to any person until he, or the head of the family to which he belongs, has disposed of or been paid for his improvements, as provided in section three of this act.

SECTION. 5. That the sum of seventy-seven thousand three hundred and seventy-five dollars, being the Chickasaw proportion of the sum of three hundred thousand dollars, and the interest due thereon, which, by the provisions of the third article of said treaty of April twenty-eighth, eighteen hundred and sixty-six, was to "be held for the use and benefit of such of said persons of African descent as the United States shall remove from said territory in such manner as the United States shall deem proper," be and the same is hereby appropriated for the per capita payments provided for in section four of this act: *Provided*, That the Chickasaw Nation shall be required to refund to the United States for the purposes, of this act, the sum of fifty-five thousand dollars, heretofore advanced to said Nation, under the provisions of the third and forty-sixth articles of said treaty of eighteen hundred and sixty-six.

SEC. 6. That all of said persons of African descent as aforesaid, resident in said Chickasaw Nation, who do not elect to permanently remove from said Nation, shall be

placed upon the same footing as other citizens of the United States resident in said Nation, and shall be subject to removal therefrom for similar causes.

SEC. 7. That allotments of lands in severalty within said Creek and Seminole ceded lands shall be made to such persons of African descent as may remove thereto from the Chickasaw Nation under the provision of this act, under the direction of the Secretary of the Interior, in quantity as provided in the first section of the act approved February eighth, eighteen hundred and eighty-seven, entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes;" and for the lands so allotted patents shall issue in the same manner and of the same legal effect as provided in the fifth section of said act of February eighth, eighteen hundred and eighty-seven.

UNION AGENCY, INDIAN TERRITORY,
Muscoogie, September 17, 1887.

SIR: I have the honor to report that on the 14th of September, 1887, according to previous arrangements, I met representatives of the Chickasaw freedmen as follows, to wit:

W. N. Jackson, Tishomingo County, Wash Taylor, Tishomingo County, Sam Cheadle, Tishomingo County, they having been chosen as a committee to represent the freedmen of that County; Phillip Stephenson, Mack Stephenson, Dick Roberts, a committee representing the settlements of Pickens County; Isham Love, Caleb Love, Abram Eastman, a committee representing the settlements of Panola County; Jack Alexander, Wilson Chico, Lee Kemp, representatives of the settlements of Pontotoc County.

Besides these were present a number of other colored men, including Henry Kemp, representative of the Stringtown settlement of Chickasaw negroes in the Choctaw Nation, and T. J. Humphries, representing a similar community from Caddo, in the Choctaw Nation. I learned from these men, as nearly as they could tell, that there were between two and three thousand of the Chickasaw negroes; that they were getting along tolerably well with their farms and stock. The representatives who were present were decently and well clad, and seemed in a fairly prosperous condition. I invited them to free expression of their opinions and feelings. They were uniform in declaring that the Chickasaws had treated them well; that they were without school privileges, however; that they would like to be adopted by the Chickasaws and live with them always; that they would not like to leave, because they had made their farms and had become attached to the country; that they were quite willing in 1866 to leave, but were not willing to move now unless the Government thought it best.

I informed them of the memorial of the Chickasaw Nation, and read to them the status of the case, as shown in your report of January 25, 1887. I told them I would be glad to report their feelings relative to the matter as well as their condition, and hoped to be of some common service to them and the Chickasaw people. They had a private consultation relative to the matter and their chairman wrote out the decision herewith inclosed, which I transmit as I received it from them. They each declared that presented their feelings.

In this connection, for the information of your office, I recite here the names and post-office addresses of their leading men, as given me by this committee.

Panola County, Isham Love, Colbert, Ind. T.; Tishomingo County, Washita Settlement, W. N. Jackson; Mill Creek Settlement, Isham Flint; Pontotoc County, Cherokee Town, Cap. H. Harper, Cherokee Town, Ind. T.; Canadian, Isham Alexander, Johnsonville, Ind. T.; Stonewall, King Blue, Stonewall, Ind. T.; Blue Settlement, Wilson Chico and Lee Kemp, Tishomingo, Ind. T.; Pickens County, Wild Horse Settlement, Jim Williams, Fort Arbuckle, Ind. T.; Caddo or Spring Creek, Mack Stephenson, Woodward, Ind. T.; Red River, Si Love, Burneyville, Ind. T., Lower Washita, Charles Cohee, Dresden, Ind. T.

Choctaw Nation, Henry Kemp, Stringtown, and T. J. Humphries, Caddo, Ind. T.

These settlements average from 200 to 250, according to their statements.

On Wednesday evening I met a committee of eight of the Chickasaw legislature, to wit, Senators Lem Reynolds, Sam Paul, Tandy Walker, Scott Hawkins, and Representatives Eli Perry, Bud Randolph, N. G. Frazier, and Edward Johnson. I represented to them the condition of these freedmen, and urged them to take such action in the matter as was just and right. They replied to me that while they were previously apprised of the Chickasaws having received \$55,000 on account of these freedmen, that the treaty provided that the United States might re-imburse itself under the 48th article of the treaty of 1866, out of any money of the Chickasaw Nation in the hands of the United States. They declare they entertain no unfriendly feelings to their emancipated slaves, but that they were firmly resolved that they would never under any circumstances adopt them; that they had rapidly increased

since the war by births, by inter-marriages with United States citizens of the colored race, and it was very difficult after a lapse of so great a time, in the absence of authenticated rolls, to know positively who belonged to this class of Chickasaw negroes under the treaty; that they believed that there were nearly 4,000 of these people, and that they are afraid to adopt them for fear that they might with their votes succeed in controlling their government; that they were willing to agree to any liberal terms for the removal of these persons from their domain in accordance with their previous requests under the treaty. They insist upon it that the United States should carry out the treaty of 1866, as expressed in the third article and remove from the nation all such persons as are willing to remove, and declare the others on the footing of United States citizens. They positively refuse to agree to extend to the negroes any school privileges, or any further rights than prescribed by treaty.

I believe they would be willing to consent to any reasonable terms looking to the removal of these people, but I found no variation, either in the private conversation or public interview, in the wish of the Chickasaw people upon this subject.

It seems a great pity that these poor negroes should be without schools, and I have the honor to recommend that the matter should be laid before Congress, if necessary, for proper action in the premises.

I respectfully recommend that the fourth article of the treaty of 1866, should be carried out as soon as suitable legislation can be had on that subject.

There is a fertile country immediately adjacent to the Chickasaw Nation, and on the north and west of the Pottawatomie country, on the Canadian River which might be occupied by these people under the treaty with the Creeks, to which your attention is respectfully called.

Your obedient servant,

ROBT. L. OWEN,
United States Indian Agent.

Hon. J. D. C. ATKINS,
Commissioner Indian Affairs, Washington, D. C.

[Inclosure to report of R. L. Owen, United States Indian agent, dated September 17, 1887.]

The hole Number of men has A Greed to be left in the hands of the united State if the Chickasaw do Not take us.

MEMORIAL.

To the Congress of the United States:

Your memorialist, the Chickasaw people, would most earnestly represent, that the Chickasaw tribe of Indians ceded their homes, east of the Mississippi River, to the United States. "Finding themselves oppressed, being ignorant of the language and laws of the white man, they could not understand or obey them; rather than submit to this great evil, they preferred to seek a home in the west, where they could be governed by their own laws. And believing that they could procure for themselves a country suited to their wants and conditions, provided they had the means to contract and pay for the same, they determined to sell their country and hunt a new home. The President heard the complaints of the Chickasaws and, like them, believed they could not be happy and prosperous as a nation in their situation and condition, and being desirous to relieve them from the great calamity that seemed to await them if they remained where they were, he sent his commissioner, General John Coffee, who met the whole Chickasaw people in council, and ceded their homes in the east under the treaty ratified March 1, 1833, sections 1, 2, 3, 4, and in July, 1834, a new treaty was made, making arrangements for the final removal of the Chickasaw people, west of the Mississippi River." The Chickasaws sold under provisions of said treaties and bought a home from the Choctaws, paying for the same \$530,000, and in 1837 the Chickasaw people emigrated west to their new homes, then a wilderness. Great many Chickasaws sold their homes, and reservations that were reserved to them under the treaties, for negroes, paid large prices for them, and emigrated west to their new homes with them, believing they were good property—they giving valuable considerations to the white men for them. The Chickasaw people never held in bondage any people prior to the time they purchased the negroes, and owned and possessed them until the year 1865, and upon the request of the United States commissioners liberated all their negroes, and in the treaty of 1866 reaffirmed said agreement, that involuntary slavery should not exist in the Chickasaw Nation—only for the commission and conviction of crime. The proclamation of President Lincoln, liberating the freedmen of the Southern States did not apply to the Territories and the Chickasaw people. The Chicka-

saws agreed and did liberate their former slaves, and did give them a home as good as their own and \$100 per capita that would emigrate to it; and those emigrating and returning, and those who refused to emigrate, should remain in the Chickasaw nation as other citizens of the United States, as provided under the third and fourth articles of the treaty of 1866. The United States has failed to carry out the stipulations of said treaty, while the Chickasaws have continually asked their removal to the leased land, or to Oklahoma, that was purchased by the United States for the settlement of the Indians and freedmen. The Chickasaws have furnished the freedmen, their former slaves, for the past twenty years, a home, and treated them with uniform kindness, and want them to enjoy all the benefits of the treaty of 1866, except to share a home among them. The number of freedmen being so great, if adopted, will soon control our schools and government that we have been building and fostering for the past forty years. We love our homes, institutions, and government, and will not surrender them. The Chickasaws have done more for their freedmen than the Southern States—they liberated them, gave them suffrage—while the Indians who adopted their freedmen gave them a franchise and a home among them, we gave them a home as good as our own, and \$100 per capita for all those who will accept, to emigrate to it, where they can build their own government, schools, and churches, under the fostering care of the United States Government. It is a boon no other freedmen had had the opportunity to accept in the United States or in the world. The decision of the Commissioner of Indian Affairs, dated January 25, 1887, shows that \$55,000 has been paid to the Chickasaws, part of the \$75,000 of the \$300,000 that was set apart by the third and fourth articles of the treaty of 1866. The Chickasaws having continuously refused to accept the \$75,000, and confer citizenship on their former freedmen under the provision of the treaty of 1866, were under the impression said advance was made under the forty-sixth article of the treaty of 1866, for the admission of the Kansas Indians, and not the freedmen.

And whereas the Chickasaw people having kindly and friendly feeling towards the freedmen, their former slaves, and wishing them to receive full valuation of the places they live upon, for their support, as provided for in section fourth of the treaty of 1866, do hereby agree that they shall have two years, from the passage of this act, to sell their improvements in the Chickasaw Nation to the best advantage, that no loss may accrue to them: Therefore,

Be it resolved by the legislature of the Chickasaw Nation, That the nation shall refund to the United States the sum of \$55,000, to be used in removing the freedmen in the Chickasaw Nation to their new home as provided under the third and fourth articles of the treaty of 1866, made between the United States, the Choctaw and Chickasaw Nations of Indians.

Be it further resolved, That a copy of this memorial and resolution be furnished each and every member of the Senate and House of Representatives of the United States Congress, and that this resolution take effect from and after its passage.

Approved October 4, 1887.

W. M. GUY,
Governor Chickasaw Nation.

MEMORIAL OF THE CHICKASAW NATION TO THE PRESIDENT OF THE UNITED STATES.

In the years 1837 and 1838 the Chickasaws emigrated from the States of Mississippi, Tennessee, and Alabama to the Indian Territory. At that time the Chickasaws numbered about 4,974, and their negro slaves about 1,096, as appears from the emigration rolls on file in the office of Indian Affairs. In the second article of the treaty concluded between the United States and the Choctaw and Chickasaw Nations on the 28th of April, 1866, it was stipulated as follows:

“The Choctaws and Chickasaws hereby covenant and agree that henceforth neither slavery nor involuntary servitude, otherwise than in punishment of crime, whereof the parties shall have been duly convicted, in accordance with laws applicable to all members of the particular nation, shall ever exist in said nation.”

During the half century which has elapsed since the emigration of the Chickasaws the proportion of the colored people has been very greatly augmented in the Chickasaw Nation. This has been brought about by the following causes: In the first place, their natural increase has been much greater than that of the Indians. Then regiments of United States colored troops were stationed in the Chickasaw Nation after the war, and around them gathered a large number of colored people from the Choctaw Nation who had formerly been slaves of the Chickasaws and Choctaws. Furthermore, many of the soldiers were mustered out of service after the close of the war, and married and settled in the country. And, finally, many negroes who had been sold by the Chickasaws before the war have returned since the war, and now claim all the privileges secured to the negroes who were emancipated by the treaty of 1866. The

result is that in two of the four counties of the Chickasaw Nation, viz, Pickens and Pontotoc, the negroes outnumber the Indians, and in the third county, Tishomingo, they would constitute nearly half of the voting population.

Article III of the treaty of April 23, 1866, contains the following provisions:

(1) The Choctaws and Chickasaws agreed to sell and cede to the United States, for the sum of \$300,000, the territory west of the ninety-eighth meridian, known as the "leased district."

(2) The United States agreed to hold the purchase money (\$300,000) in trust, at interest, for the Choctaws and Chickasaws (three-fourths for the former and one-fourth for the latter) until the Choctaw and Chickasaw legislatures, respectively, should make such laws, rules, and regulations as would secure to all persons of African descent, residing in said nations at the date of the treaty of Fort Smith, and their descendants, formerly held in slavery among said nations, all the rights, privileges, and immunities of citizens of said nations (including the right of suffrage), except the right to share in the annuities, moneys, and public domain of the nations, and also to secure to each of said freedmen 40 acres of land, upon the terms and in the manner prescribed.

(3) The United States agreed to pay over the sum of \$300,000 to the Choctaws and Chickasaws as soon as such laws, rules, and regulations should be made, less such part of the sum of \$300,000 as should be sufficient to pay \$100 per capita to such of said freedmen as should, within ninety days after the laws, rules, and regulations were made, elect to remove and actually remove from the Territory.

4. It was agreed that if such laws, rules, and regulations were not made by the Choctaw and Chickasaw Nations, respectively, within two years after the ratification of the treaty of April 23, 1866, said sum of \$300,000 should be held in trust for such of said freedmen as the United States should remove from the Territory.

5. It was agreed that upon the failure of the Choctaws and Chickasaws to make such laws, rules, and regulations within two years after the ratification of the treaty, said sum of \$300,000 being thereupon held for the use and benefit of said freedmen, the United States should remove said freedmen from the Indian Territory, within ninety days after the expiration of such period of two years.

The treaty stipulation is in the following words:

"ARTICLE III. The Choctaws and Chickasaws, in consideration of the sum of \$300,000, hereby cede to the United States the territory west of the 98° west longitude, known as the leased district, provided that the said sum shall be invested and held by the United States, at an interest not less than 5 per cent., in trust for the said nations, until the legislatures of the Choctaw and Chickasaw Nations, respectively, shall have made such laws, rules, and regulations as may be necessary to give all persons of African descent, resident in the said nations, at the date of the treaty of Fort Smith, and their descendants heretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations, respectively; and also to give to such persons, who were residents as aforesaid, and their descendants, 40 acres, each, of the land of said nations, on the same terms as the Choctaws and Chickasaws, to be selected on the survey of said land, after the Choctaws and Chickasaws and Kansas Indians have made their selections, as herein provided; and immediately on the enactment of said laws, rules, and regulations, the said sum of \$300,000 shall be paid to the said Choctaw and Chickasaw Nations, in the proportion of three-fourths to the former and one-fourth to the latter—less such sum, at the rate of \$100 per capita, as shall be sufficient to pay such persons of African descent, before referred to, as, within ninety days after the passage of such laws, rules, and regulations, shall elect to remove and actually remove from the said nations, respectively. And should the said laws, rules, and regulations not be made by the legislatures of the said nations, respectively, within two years from the ratification of this treaty, then the said sum of \$300,000 shall cease to be held in trust for the said Choctaw and Chickasaw Nations, and be held for the use and benefit of such of said persons of African descent as the United States shall remove from the said territory, in such manner as the United States shall deem proper, the United States agreeing within ninety days from the expiration of the said two years, to remove from said nations all such persons of African descent as may be willing to remove; those remaining or returning after having been removed from said nations, to have no benefit of said sum of \$300,000, or any part thereof, but shall be upon the same footing as other citizens of the United States in the said nations."

The third article of the Creek treaty of June 14, 1866, contained the following stipulation:

"In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Creeks hereby cede and convey to the United States, to be sold and used as homes for such other civilized Indians as the United States may choose to settle thereon, the west half of their entire domain, to be divided by a line running north and south."

The fourth article of the Choctaw and Chickasaw treaty of 1866 contained the following stipulation on the part of the Choctaws and Chickasaws:

"And they further agree that, while the said freedmen, now in the Choctaw and Chickasaw Nations, remain in said nations, respectively, they shall be entitled to as much land as they may cultivate, for the support of themselves and families, in cases where they do not support themselves and families by hiring, not interfering with existing improvements, without the consent of the occupant, it being understood that in the event of the making of the laws, rules, and regulations aforesaid, the 40 acres aforesaid shall stand in the place of the land cultivated as last aforesaid."

The Chickasaws did not, within two years after the ratification of the treaty of April 28, 1866, make the laws, rules, and regulations necessary to give to the freedmen either the rights, privileges, and immunities, or the 40 acres of land, mentioned above. On the contrary, they decided not to make such laws, rules, and regulations; and they surrendered all claim to said sum of \$300,000.

An act of the Chickasaw legislature, approved November 9, 1866, contains the following provisions:

SEC. 3. "*Be it further enacted*, That the provisions contained in article 3 of the said treaty, giving the Chickasaw legislature the choice of receiving and appropriating the \$300,000 therein named, for the use and benefit of the Chickasaws, or passing such laws, rules, and regulations as will give all persons of African descent certain rights and privileges, be and it is hereby declared to be the unanimous consent of the Chickasaw legislature that the United States shall keep and hold said sum of \$300,000 for the benefit of the said negroes. And the governor of the Chickasaw Nation is hereby requested to notify the Government of the United States that it is the wish of the legislature of the Chickasaw Nation that the Government of the United States remove the said negroes beyond the limits of the Chickasaw Nation, according to the requirements of the third article of the treaty of April 28, 1866."

The provisions of this act were affirmed by an act of the Chickasaw legislature approved October 22, 1865.

Upon the passage of the act of November 9, 1866, it became the duty of the United States, under the treaty, to remove the freedmen from the Chickasaw Nation. But the United States have wholly neglected to perform this duty, and have left all the freedmen within the Chickasaw Nation; and since 1868 those residing within the Chickasaw territory have enjoyed the free use of all the land they have seen fit to cultivate, and all the rights which the Chickasaws themselves have enjoyed, except the right to vote and the right to share in the annuities, moneys, and public domain of the nation.

Under the treaty the Chickasaws were free to adopt the freedmen as citizens, or to reject them, at their discretion. Their right to determine this question for themselves was not made conditional upon the approval by the United States of the reasons on which their decision should be based.

It will be observed that the stipulations of the treaty are only applicable to the emancipated slaves of the Choctaws and Chickasaws and to their descendants. Other negroes, whether immigrants from the States, or from other Indian nations, or soldiers mustered out of the Army of the United States, were, and still are, legally on the same footing, in the Chickasaw Nation, as white citizens of the United States. They can not legally reside in the nation without the consent of the Chickasaws. But the difficulties of the situation are greatly increased by the presence in the Chickasaw Nation of large numbers of negroes who are not emancipated slaves of either the Choctaws or Chickasaws, as well as by the presence of many Choctaw freedmen and their descendants. It will be difficult, if not impossible, to separate these classes from each other. They have intermarried, and their relations have become so intimate that a rigorous enforcement of the right of the Chickasaws to exclude all except the freedmen and their descendants would work great hardship to the colored people. Heretofore the Chickasaws have made no discrimination between freedmen and their descendants, on the one hand, and those negroes on the other hand, who have no interest in the treaty. They have furnished both classes with all the land they have seen fit to cultivate, and have treated both classes alike with uniform kindness and justice. Although residing in the Chickasaw Nation, mingled with the Indians, the negroes have never been subject to the civil or criminal jurisdiction of the Chickasaw Nation since the treaty of 1866 was made.

The Chickasaws are friendly to the freedmen and their descendants and wish them to enjoy the privileges secured to them by the treaty of 1866. But the addition of this multitude of immigrants to the body of Chickasaw freedmen seriously imperils the welfare of the Chickasaw Nation. The freedmen constituted an insignificant proportion of the Choctaw population. And the tendency of the Choctaw freedmen has been steadily towards the Chickasaw country. Their recent absorption into the body of the Choctaw citizens was, therefore, attended with no danger or inconvenience to the Choctaws. But the freedmen and colored immigrants constitute so large a part

of the Chickasaw Nation and increase in number so rapidly, that they must soon outnumber the Chickasaws, and, if invested with the elective franchise, will be able to take possession of the government, and ultimately to deprive the Chickasaw people of their government and country. The Chickasaws have decided, after mature deliberation, that they can not, under any circumstances, consent to adopt the freedmen as citizens. The result of this threatening condition of things must soon be to disturb the friendly relations now existing between the colored people and the Chickasaws.

In view of the considerations above set forth, the Chickasaws earnestly ask the United States to fulfill the treaty of 1866, by removing, without delay, to the leased district west of the 98th meridian of longitude, or to the Oklahoma country, ceded by the Creek treaty of 1866, or elsewhere, all the freedmen who shall consent to such removal, and by placing all those who shall refuse to go on the same footing as other citizens of the United States in the Chickasaw Nation.

G. W. HARKINS,
H. F. MURRAY,
Chickasaw Delegates.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 25, 1887.

The SECRETARY OF THE INTERIOR:

SIR: I have the honor to acknowledge the receipt through the Department of a communication from the President, dated January 15, 1887, inclosing a memorial of the Chickasaw Nation relative to the freedmen in said nation, and requesting information in regard to the matter.

The memorial is referred for early report of such facts as will enable this Department, as required by letter herewith from the President, to inform him of the condition of the matter referred to in the statement made by the Chickasaw delegates.

The memorial recites the provisions of the treaty of April 23, 1866, with the Choctaws and Chickasaws (14 Stats., 769), relative to the freedmen in those nations, and the action of the Chickasaws thereunder, and "earnestly ask the United States to fulfill the treaty of 1866 by removing without delay, to the leased district west of the 98th meridian longitude, or to the Oklahoma country ceded by the Creeks' treaty of 1866, or elsewhere, all the freedmen who shall consent to such removal, and by placing all those who shall refuse to go on the same footing as other citizens of the United States in the Chickasaw Nation."

The provisions of the said treaty 1866, relating to freedmen and the action taken thereunder with respect to the Chickasaw Nation, so far as the same is disclosed by the records of this office are as follows:

"By the third article of said treaty the Choctaws and Chickasaws, in consideration of the sum of \$300,000, ceded to the United States the territory west of the 98th degree of west longitude, known as the "Leased district," with the provision that said sum of \$300,000 should be invested and held by the United States, at an interest not less than 5 per cent., in trust for said nations, until the legislatures of said nations should respectively make such laws as might be necessary to give all persons of African descent resident in said nations, at the date of the treaty of Fort Smith, and their descendants, heretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations, respectively; and also to give to such persons who were residents as aforesaid, and their descendants, 40 acres each of the land of said nations on the same terms as the Choctaws and Chickasaws. * * * And immediately on the enactment of such laws, rules, and regulations, the said sum of \$300,000 shall be paid to the said Choctaw and Chickasaw Nations in the proportion of three-fourths to the former and one-fourth to the latter, less such sum, at the rate of \$100 per capita, as shall be sufficient to pay such persons of African descent before referred to as, within ninety days after the passage of such laws, rules, and regulations, shall elect to remove and actually remove from said nations respectively. And should the said laws, rules, and regulations not be made by the legislature of the said nations respectively, within two years of the ratification of this treaty, then the said sum of \$300,000 shall cease to be held in trust for the said Choctaw and Chickasaw Nations, and be held for the use and benefit of such of said persons of African descent as the United States shall remove from the said Territory in such manner as the United States shall deem proper, the United States agreeing within ninety days from the expiration of the said two years to remove from said nations all such persons of African descent as may be willing to remove, those remaining or returning after removal to be on the same footing as other citizens of the United States."

The fourth article contained certain stipulations relative to the treatment of the negroes in the respective nations.

The forty-sixth article provided that "of the moneys stipulated to be paid to the Choctaws and Chickasaws under this treaty for the cession of the leased district and the admission of the Kansas Indians among them" (provided for in article 30) the sum of \$150,000 shall be advanced and paid to the Choctaws and \$50,000 to the Chickasaws, through their respective treasurers, as soon as practicable after the ratification of this treaty, to be repaid out of said moneys or any other moneys of said nations in the hands of the United States.

By the act of July 26, 1866, making appropriations for the Indian service for the year ending June 30, 1867 (14 Statutes, 259), the sum of \$15,000 was appropriated for interest at 5 per cent. per annum upon the amount paid for certain lands ceded by the Choctaws and Chickasaws to the United States, and due them under the third and forty-sixth articles of the treaty of April 28, 1866.

By the same act the sum of \$15,000 was appropriated to be advanced to the Choctaws, and the sum of \$50,000 to be advanced to the Chickasaws, for the cession of the leased district, and the admission of the Kansas Indians as per the forty-sixth article of the treaty of April 28, 1866.

By the act of April 10, 1869 (16 Statutes, 39), the sum of \$15,000 was appropriated for interest due the Choctaws and Chickasaws, August 8, 1868, on \$300,000 held in trust for said Indians under the third article, treaty of April 28, 1866.

No Kansas Indians ever removed to the Chickasaw Nation under the provision of the thirtieth article of the treaty, so no money was due the Chickasaws on account of the admission of the Kansas Indians.

The sum of \$50,000 appropriated by the act of July 26, 1866, was transmitted to William Byers, superintendent of Indian affairs for the southern superintendency, November 9, 1866, and by him paid to Joel Kemp, treasurer of the Chickasaw Nation, February 8, 1867, as evidenced by his receipt on file in this office with Superintendent Byer's accounts for the first quarter of 1867.

The amount appropriated for interest by the above act was sent to James Wortham, superintendent, May 23, 1867, and the sum of \$3,750 (the appropriated share of the Chickasaws) by him paid to Joel Kemp, treasurer of the Chickasaw Nation, July 27, 1867, as evidenced by his receipt on file in this office with Superintendent Wortham's accounts for the third quarter of 1867.

The share of the Chickasaws in the interest appropriated for in the act of April 10, 1869 (\$3,750), was paid to Holmes Colbert, Chickasaw commissioner, May 28, 1869, with Treasury warrant No. 620, of that date.

Under date of January 19, 1867, Superintendent Byers submitted for the consideration of this office the following papers:

(1) Certified copy of an act passed by the Chickasaw legislature, and approved by the governor, November 9, 1866, giving the assent of the legislature to the treaty of 1866, as amended by the Senate, declaring the unanimous consent of the legislature that the United States shall keep and hold the sum of \$300,000, appropriated by the third article of the treaty, for the benefit of the negroes, and requesting the governor "to notify the Government of the United States that it is the wish of the legislature of the Chickasaw Nation for the Government to remove said negroes from within the limits of the Chickasaw Nation," according to said third article of the treaty of April, 1866.

This act also gave the assent of the legislature to the provisions of the treaty for sectionizing the lands of the nation and allotting the same in severalty, and requesting the President to cause the same to be done as soon as practicable.

(2) A letter dated December 8, 1866, addressed to Agent Chollar by a committee appointed at a council of freedmen, which letter sets forth that the unfriendly and bitter feeling held by the Indians toward the freedmen rendered them anxious to remove to any land designated by the Government; that the Chickasaws were willing to give up their proportion of the \$300,000; asked that the Government provide transportation for themselves and families, and necessary supplies to enable them to start in their new location, and expressed their desire to remove at the earliest day possible.

(3) A copy of a letter dated December 25, 1866, addressed by Agent Chollar to Governor Harris, of the Chickasaws, asking his views on the matter.

(4) The reply of Governor Harris, in which he approved the course of the freedmen, and, although not claiming the interference of the United States to remove them until two years from the ratification of the treaty, acknowledged the advantages to be gained by early action.

Attached to this letter was a certified copy of an act of the Chickasaw legislature, approved November 10, 1866, authorizing and requesting the governor to "issue forthwith a general order, requiring all intruders, refugees (negroes not embraced within the treaty of 1866), to forthwith leave the Chickasaw Nation and forever stay out of the same, or procure, by the recommendation of good citizens, a permit to remain."

Governor Harris also sent a copy of the proclamation issued by him under this act.

It does not appear that any action was taken in this office with reference to the matters presented in the foregoing papers.

Under date of June 27, 1868, Superintendent Wortham forwarded to this office a resolution passed by the freedmen and a second petition.

This petition set forth the provisions of the third article of the treaty of 1866, and the refusal of the Indians to grant to the freedmen the rights mentioned in said third article, in view of which the petitioners desired to be removed from the Choctaw and Chickasaw Nations and to have the \$300,000, provided in the treaty expended for their benefit and use; and further, that a delegation from their number might be permitted to visit this city to represent their wishes and consult with the authorities regarding their future.

This petition was laid before the Department upon the 20th of July, 1868, with the recommendation that the visit of the delegation of the freedmen be authorized, and that measures be immediately adopted by the Government for the fulfillment of its treaty stipulations upon the subject of the removal of these freedmen.

In compliance with a request from this office, made August 18, 1868, to be informed as to the action taken by the Department upon the foregoing letter of July 20, the Secretary of the Interior stated that he had laid the whole matter before Congress on the 22d of July, 1868, asking that body to take early action for the removal of these freedmen, by designating a place to which they should be removed, and making an appropriation for the expenses of their removal, but that as Congress had failed to pass the measure indicated the Department was powerless in the premises.

Copies of this communication were furnished to Holmes Colbert, Chickasaw Commissioner, and Sampson Folsom, attorney-general of the Choctaw Nation, as the basis of letters sent to those gentlemen in reply to one addressed by them jointly to this office August 17, 1868, in which letter they officially called the attention of the office to article third of the treaty of 1866, and stated that the legislative council of neither tribe had passed such laws, rules, and regulations as were necessary to give the freedmen the rights there enumerated, but that, on the contrary, each of these councils had expressed the desire that the Government of the United States should, with the least possible delay, carry into effect those stipulations of the treaty which looked to their removal.

In his annual report for 1868, Agent Chollar stated that the failure of the Government to remove the freedmen, as provided in the treaty, had caused much trouble, in which a number of them had been killed, and that, in his judgment, nothing but prompt action on the part of the Government would prevent more serious difficulties and complications, as the negroes were uneasy and dissatisfied. He recommended the land west of the Seminole reservation as suitable for their use, and asked the speedy action of the Department.

In February, 1869, the delegation appointed by the freedmen to further the necessary action by Congress arrived in this city and submitted a copy of their memorial to Congress, in support of which they asked such assistance as the Department might rightfully furnish.

February 18, 1869, J. H. Leorenwoth, claiming to represent Governor Harris, of the Chickasaw Nation, addressed a communication to this office, suggesting that the lands purchased from the Seminoles should be set apart exclusively for the benefit of the freedmen.

This communication was referred to the Department on the 2d of March, 1869, but as the subject had been laid before Congress for its action, the Secretary did not deem it advisable to issue any further instructions regarding it, and so informed this office March 16, 1869.

Under date of April 26, 1869, Mr. J. B. Luce transmitted to this office a letter addressed by the delegation to the freedmen asking for definite information regarding the purposes of the Department in their case.

In referring this letter to the Secretary, the Commissioner stated that he could furnish the delegation with no satisfactory information on the subject, and that he knew of nothing that could be done towards removing the freedmen without an appropriation from Congress for that purpose.

The expenses of this delegation were paid by the Government. During 1869 and 1870 considerable correspondence was had with Acting Agent Olmstead regarding the condition and status of the freedmen and the provision to be made for them.

In his annual report for 1870 (annual report of Commissioner of Indian Affairs for 1870, page 291), he recommended that as the Chickasaws had refused them the rights of citizenship, and the Choctaws had taken no action in the matter, the Government should remove them or make other provisions as soon as possible, as the Indians were evidently determined to await action by the United States authorities.

In 1873 an act was passed by the Chickasaw legislature, approved January 10, 1873, entitled "An act to adopt the negroes of the Chickasaw Nation," which declared all negroes belonging to Chickasaws at the time of the adoption of the treaty at Fort

Smith, and resident in the Nation at the date thereof, and their descendants, to be adopted in conformity with the third article of the treaty of 1886, *provided*, that the proportional part of the \$300,000 specified in said article, with the accrued interest thereon, should be paid to the Chickasaw Nation for its sole use and benefit; *provided further*, that the said adopted negroes should not be entitled to any part of the said \$300,000, nor to any benefit from the principal and interest of invested funds, nor to any share in the common domain except the 40 acres provided in the treaty, nor to any privileges or rights not conferred by the treaty; *and provided further*, that said adopted negroes should be subject to the jurisdiction and laws of the Chickasaw Nation, just as if said negroes were Chickasaws.

This act was to have full force and effect from and after its approval by the authority of the United States.

This act was transmitted to Congress by Secretary Delano, February 10, 1873, who recommended that such legislation be had by Congress as would extend the time in all respects for the execution of the provisions of the third article of the treaty of 1866, for the term of two years from the 1st of July, 1873.

The subject was referred to the Committee on Freedmen Affairs February 13, 1873, and ordered to be printed. No further action appears to have been taken. (See annual report of this office for 1882, page LVII, and H. R. Ex. Doc. No. 207, Forty-second Congress, second session.)

On the 17th of March, 1885, Hon. J. P. C. Shanks was appointed by the Secretary of the Interior a special commissioner to investigate and report an adjustment of the status of persons of African descent resident in the Choctaw and Chickasaw countries.

On the 30th of December, 1875, he submitted his report, in which he opposed the removal of the freedmen from those nations, and recommended that the United States take measures to secure their recognition as full citizens of those nations.

No action appears to have been taken upon this report, except that a copy of it was subsequently (September 17, 1880), transmitted to the Secretary of the Interior, in connection with other papers.

In 1876 the legislature of the Chickasaw Nation adopted resolutions (approved October 18, 1876), directing the election of commissioners to confer with the commissioners from the Choctaw Nation to agree upon some plan whereby the freedmen and their descendants should be removed from, and kept out of, the Choctaw and Chickasaw country (see Chickasaw Laws, page 148. Edition of 1878).

In 1879 the legislature passed an act (approved March 17, 1879), authorizing the appointment of commissioners to meet like commissioners from the Choctaws to confer on the freedmen question, and report in writing to the legislature (see page 6 of pamphlet laws, 1878-'81.)

By the Indian appropriation act of May 17, 1882 (22 Stats., 72), the sum of \$10,000 was appropriated for the education of freedmen in the Choctaw and Chickasaw Nations, as follows:

"That the sum of \$10,000 is hereby appropriated out of the \$300,000 reserved by the third article of the treaty with the Choctaws and Chickasaws, concluded April 8, 1866, for the purpose of educating freedmen in said tribes, to be expended under the direction of the Secretary of the Interior, three-fourths thereof for the freedmen among the Choctaws and one-fourth for the freedmen among the Chickasaws: *Provided*, That said sum of \$10,000 shall be deducted in like proportion from any moneys in this act appropriated to be paid said Choctaws and Chickasaws; *And provided further*, That either of said tribes may, before such expenditure, adopt and provide for the freedmen in said tribes in accordance with said third article, and in such case the money herein provided for such education in said tribe shall be paid over to said tribe, to be taken from the unpaid balance of the \$300,000 due said tribe."

Before the enactment of this provision, concurrent action on the part of the two nations had been necessary.

Under this act the Choctaws adopted their freedmen by act of legislature, approved May 21, 1883, which act was held by the Department to be a substantial compliance with the requirements of the treaty, and by the act of Congress approved March 3, 1885 (23 Stats., 366), the balance of the Choctaw share of the \$300,000 was placed to the credit of the Choctaws on the books of United States Treasury.

The Chickasaws, however, took no action looking to the adoption of the freedmen under the act of May 17, 1882. It will be observed that of the sum of \$82,500, the Chickasaw's share of the \$300,000, and two years interest, provided to be paid upon the adoption of the freedmen, the Chickasaws have actually been paid the sum of \$57,500, of which amount \$2,500 was recouped by the act of May 17, 1882.

They have, therefore, been paid the net sum of \$55,000, to no part of which were they entitled. It is presumed that this sum was advanced to the Chickasaws before they had complied with the requirements of the treaty, and most of it before the expiration of the two years' limit, in the hope and expectation that they would eventually take the action desired, notwithstanding their request that the freedmen be removed.

After the payment had been made and the time had expired, various efforts were made by this office and the Department to secure favorable action by the Chickasaws, and the necessary authority from Congress to extend the time but without avail, in either direction, until the passage, by Congress, of the act of May 17, 1882, which the Chickasaws refused to accept.

I do not think that any authority now exists to remove the freedmen from the Chickasaw Nation, either with or without their consent.

By the failure of the Government to remove such freedmen as were willing to go within ninety days after the expiration of the two years, as stipulated in the treaty, the complications have increased from year to year.

I have no recent information as to the desires of the freedmen in the premises, nor do I see that anything can be done to better their condition, or to carry out the wishes of the Chickasaws as expressed in their memorial, without legislation by Congress.

Neither the letter of the President nor your reference calls for any recommendation in the matter, and in its present status, without further information, I am not prepared to make any, but would suggest that in the event of any legislation, looking to the removal of the freedmen, the Chickasaws should be required to refund the \$55,000 advanced them, and that said sum should be appropriated for the benefit of the freedmen as contemplated by the treaty. I return the papers and inclose a copy of this report.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

To the honorable Committee on Indian Affairs, House of Representatives:

In the absence of the Chickasaw delegates it becomes the duty of the undersigned, attorney of the Chickasaw Nation, to submit to the committee the following statement relating to H. R. 6545, entitled "A bill for the relief of the freedmen of the Chickasaw Nation of Indians," introduced April 14, 1884.

Since the introduction of this bill there has been, of course, no opportunity for either the executive or legislative authorities of the Chickasaw Nation to consider its provisions. It will be obvious, from the facts hereinafter set forth, that it would be unjust for Congress to enact the bill into a law before the Chickasaws had had an opportunity, upon full deliberation, to communicate to Congress their views as to the effect of the proposed legislation upon their national rights and interests, and upon the rights and interests of the freedmen concerned.

Article III of the treaty of April 28, 1866, contains the following provisions:

(1) The Choctaws and Chickasaws agreed to sell and cede to the United States, for the sum of \$300,000, the territory west of the 98th meridian, known as the "leased district."

(2) The United States agreed to hold the purchase-money (\$300,000) in trust, at interest, for the Choctaws and Chickasaws (three-fourths for the former and one-fourth for the latter) until the Choctaw and Chickasaw legislatures, respectively, should make such laws, rules, and regulations as would secure to all persons of African descent, residing in said nations at the date of the treaty of Fort Smith, and their descendants, formerly held in slavery among said nations, all the rights, privileges, and immunities of citizens of said nations (including the right of suffrage), except the right to share in the annuities, moneys, and public domain of the nations, and also to secure to each of said freedmen 40 acres of land, upon the terms and in the manner prescribed.

(3) The United States agreed to pay over the sum of \$300,000 to the Choctaws and Chickasaws, as soon as such laws, rules, and regulations should be made—less such part of the sum of \$300,000 as should be sufficient to pay \$100 per capita to such of said freedmen as should, within ninety days after the laws, rules, and regulations were made, elect to remove and actually remove from the Territory.

(4) It was agreed that if such laws, rules, and regulations were not made by the Choctaw and Chickasaw Nations, respectively, within two years after the ratification of the treaty of April 28, 1866, said sum of \$300,000 should be held in trust for such of said freedmen as the United States should remove from the Territory.

(5) It was agreed that, upon the failure of the Choctaws and Chickasaws to make such laws, rules, and regulations within two years after the ratification of the treaty, said sum of \$300,000, being thereupon held for the use and benefit of said freedmen, the United States should remove said freedmen from the Indian Territory within ninety days after the expiration of such period of two years.

The Chickasaws, as the undersigned is informed, did not, within two years after the ratification of the treaty of April 28, 1866, make the laws, regulations, and rules necessary to give to the freedmen either the rights, privileges, and immunities or the 40 acres of land, mentioned above. On the contrary, they decided not to make such

laws, rules, and regulations; and they surrendered all claim to said sum of \$300,000. It then became the duty of the United States, under the treaty, to remove the freedmen from the Indian Territory. But the United States have wholly neglected to perform this duty, and have left all the freedmen within the Indian Territory; and since 1868 those residing within the Chickasaw territory have enjoyed the free use of all the land they have seen fit to cultivate, and all the rights which the Chickasaws themselves have enjoyed, except the right to vote and the right to share in the annuities, moneys, and public domain of the nation.

Under the treaty the Chickasaws were free to adopt the freedmen as citizens or to reject them, at their discretion. Their right to determine this question for themselves was not made conditional upon the approval by the United States of the reasons on which their decisions should be based. The undersigned has not had time, since the introduction of the bill, to ascertain from the Chickasaw authorities the reasons why the Chickasaw Nation did not, like the Choctaws, confer citizenship upon the freedmen. But he has been informed by the delegates of the Choctaw Nation in Washington that, while the freedmen constituted a very small part of the Choctaw Nation, they constitute so large a part of the Chickasaw Nation, and their numbers increase so rapidly, that they must soon outnumber the Chickasaws, and, if invested with the elective franchise, will be able to take possession of the Chickasaw government, and ultimately to deprive the Chickasaw people of their country.

The undersigned respectfully asks that no further action be taken by the committee on this measure until the Chickasaw authorities shall have had an opportunity to inform the committee as to its bearings upon the rights and interests of their nation, and as to the present condition of the freedmen residing within their country.

HALBERT E. PAINE,
Attorney Chickasaw Nation.

APRIL 22, 1884.